IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 370 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AFSANABANU IDRISHKHAN PATHAN

Versus

ASHRAFKHAN A CHOUHAN

Appearance:

1. Special Criminal Application No. 370 of 2003
MR ANIL S DAVE for Petitioner No. 1
MR KAMEN N SHUKLA for Petitioner No. 1
NOTICE SERVED BY DS for Respondent No. 1-5
..... for Respondent No. 6
MR VM PANCHOLI APP for Respondent No. 7

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE A.L.DAVE

Date of decision: 17/04/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

#. This Habeas Corpus petition was filed by petitioner, Smt.Afsanabanu Idrishkhan Pathan, wife of Shri Idrishkhan Yakubkhan Pathan.

Following prayers have been made in this petition:-

(a) That this Honourable Court may be pleased to issue a writ of Habeas Corpus or other appropriate writ, order or direction for restraining the Respondents Police Authorities from obtaining illegal detention and illegal custody of the husband of the petitioner Shri Idrishkhan Yakubkhan Pathan without permission of the Competent Court and without according reasonable opportunity of being heard to the advocate representing the husband of the petitioner. That this Hon'ble Court may be pleased to issue order or direction to the respondents for producing the said Idrishkhan Yakubkhan Pathan before this Hon'ble Court who has been illegally detained by the Respondents No.1 to 4 at Gayakwad Haveli Police Station, in the interest of justice.

(b) That the Hon'ble Court may be pleased to direct the respondents not to take the said Idrishkhan Yakubkhan Pathan out of Ahmedabad City without the permission of the Competent Court.

(c) That the Hon'ble Court may be pleased to give such direction to the respondents so as to fully comply with the guidelines given by the Apex Court and see that principles of natural justice guaranteed under Article 14, 19, 21 and 22 of the Constitution of India may not be violated.

(d) That the Hon'ble Court may be pleased to give appropriate direction of preventing custodial death or killing in fake encounter in terms of direction issued by the Apex Court as a nature and circumstances as the case may require".

#. Learned counsel Shri Dave for the petitioner stated at the Bar that Shri Idrishkhan Pathan, husband of the petitioner was produced before the Magistrate yesterday by the police in connection with some offence. In view of this nothing survives in this petition and accordingly it was required to be dismissed. However, learned counsel Shri Dave tried to raise other submissions which were dehors the scope of this petition, therefore, we have refrained ourselves from dealing with the same.

#. With these observations, this petition is dismissed. Rule is discharged.

(B.J.Shethna, J.)

(A.L.Dave, J.)

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